With this reply, claim 44 is cancelled, claims 37 and 43 are amended, and claims 46-54 are added. Claims 37-39, 41-43, 45-54 are presented for consideration and allowance.

I. REJECTION OF CLAIM 43 UNDER 35 U.S.C. § 102(b) AS BEING ANTICIPATED BY SCHOOLMAN

Paragraph 2 of the Office Action rejected Claims 43 under 35 U.S.C. § 102(b) as being anticipated by Schoolman (U.S. Patent No. 4,483,562) while paragraph 4 indicated that claims 42 and 43 [sic – claims 44 and 45] would be allowable if rewritten in independent form including all the limitation so the base claims. In response, independent claim 43 has been amended to include the language from dependent claim 44 and claim 44 has been cancelled. Thus, claims 43 and 45 are believed to be in condition for allowance.

II. REJECTION OF CLAIMS 37-39, 41 AND 42 UNDER 35 U.S.C. § 102(b) AS BEING ANTICIPATED BY CLOSSICK

Paragraph 3 of the Office Action rejected Claims 37-39, 41, and 42 under 35 U.S.C. § 102(b) as being anticipated by Clossick (U.S. Patent No. 4,945,920).

Claim 37, as amended, recites a surgical clamp including an elongate, one-piece, malleable hollow shaft, a tissue clamp assembly, a handle assembly and an elongate actuator. The tissue clamp assembly includes first and second movable opposable jaws mounted at the distal end adopted to grasp, secure and occlude body tissue and conduits. An elongate actuator is disposed within the hollow shaft. The actuator includes a first end operatively connected to the tissue clamp assembly and a second end operatively connected to the handle assembly such that when the handle arms are moved from a first relative position to a second relative position, the first and second jaws of the tissue clamp assembly are moved between an open spaced apart position and a closed tissue gripping position or vice versa.

Clossick does not disclose, teach or suggest the surgical clamp of claim 37, as amended. In particular, Clossick does not disclose, teach or suggest a surgical clamp including an elongate, one-piece, malleable hollow shaft. In contrast, Clossick discloses a biopsy forceps including a multi-piece torqueable and formable body assembly or shaft. The body assembly includes a coil spring guidewire, a first sleeve and a second sleeve. The first sleeve, also referred to as the torqueable tubing is preferably formed by three layers of tubing, an inner plastic extrusion, a tubular envelope of braided material and an outer plastic extrusion. The biopsy forceps of Clossick rely on the multiple pieces described above to allegedly achieve a shaft that is torqueable and formable. The body assembly or shaft of Clossick is not a one-piece shaft.

Moreover, Clossick does not disclose, teach or suggest a tissue clamp assembly includes first and second movable opposable jaws mounted at the distal end adopted to grasp, secure and occlude body tissue and conduits. The Office Action alleges that "[t]he statements of intended use have been carefully considered but deemed not to impose any structural limitations on the claims patentably distinguishable over the Clossick device which is capable of operating in the claimed manner." This rejection is traversed as the language is not merely a "statement of intended use" but rather does impose structural limitations that are patentably distinguishable over the Clossick device. Accordingly, claim 37, as amended, overcomes the rejection based upon Clossick and is in condition for allowance. Claims 38, 39, 41 and 42 directly depend from independent claim 37 and overcome the rejection for at least the same reasons.

IV. ADDED CLAIMS

New claims 46-50 are directed at a surgical device having a longitudinal axis extending between a proximal end and a distal end, tissue engaging means including first and second opposed jaws for grasping, securing and occluding body tissue and conduits; a shaft member operatively coupled to the tissue engaging means, the shaft

member being constructed a plurality of pellets disposed within an outer tubing, the tubing being made of malleable material, the shaft member capable of being placed in different curvatures, each pellet having at least one jaw actuating means passage; a handle assembly operatively coupled to the shaft member and to the tissue engaging means; and a jaw actuating means for actuating the first and second jaws of the tissue engaging means between an open and a closed position, the jaw actuating means extending through the at least one passage of each of the pellets.

New claims 51-54 are directed at a surgical device having a longitudinal axis extending between a proximal end and a distal end, tissue engaging means including first and second opposed jaws for grasping, securing, and occluding body tissue and conduits; a shaft member operatively coupled to the tissue engaging means, the shaft member including a series of interconnected ball and socket segments and an outer tubing, the ball and socket segments disposed within the outer tubing, the shaft member capable of being placed in different curvatures; a handle assembly operatively coupled to the shaft member and to the tissue engaging means; and a jaw actuating means for actuating the jaws of the tissue engaging means between an open position and a closed position, a first end of the jaw actuating means being operatively connected to the handle assembly, the jaw actuating means extending through the plurality of ball and socket segments and a second end operatively connected to tissue engaging means.

VI. CONCLUSION

Applicants respectfully request reconsideration of claims 37-42, 43, 45 and new claims 46-54 for the reasons stated above. Applicants believe that the present application is now in condition for allowance. Favorable reconsideration under 37 C.F.R. § 1.112 of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

Respectfully submitted,

Date 22 June 2001

By _____

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37. (Amended) A surgical clamp comprising:

an elongate, one-piece, malleable hollow shaft including a distal end and a proximal end;

a tissue clamp assembly including first and second movable opposable jaws mounted at the distal end adopted to grasp, secure and occlude body tissue and conduits;

a handle assembly including first and second movable arms mounted at the proximal end; and

an elongate actuator disposed within the hollow shaft including a first end operatively connected to the tissue clamp assembly and a second end operatively connected to the handle assembly such that when the handle arms are moved from a first relative position to a second relative position, the first and second jaws of the tissue clamp assembly are moved between an open spaced apart position and a closed tissue gripping position or vice versa.

43. (Amended) A surgical clamp comprising:

an elongate malleable hollow shaft including a distal end and a proximal end, the shaft comprises a plurality of uniform shaft segments wherein the uniform shaft segments each have a receiving end and an outwardly projecting engaging end;

a tissue clamp assembly including first and second movable opposable jaws mounted at the distal end;

a handle assembly including first and second movable arms mounted at the proximal end; and

an elongate actuator disposed within the hollow shaft including a first end operatively connected to the tissue clamp assembly and a second end operatively connected to the handle assembly such that when the handle arms are moved from a first relative position to a second relative position, the first and second jaws of the

tissue clamp assembly are moved between an open spaced apart position and a closed tissue gripping position or vice versa.

Please add new Claims 46-54.

46. (New) A surgical device having a longitudinal axis extending between a proximal end and a distal end, comprising:

tissue engaging means including first and second opposed jaws for grasping, securing and occluding body tissue and conduits;

a shaft member operatively coupled to the tissue engaging means, the shaft member being constructed a plurality of pellets disposed within an outer tubing, the tubing being made of malleable material, the shaft member capable of being placed in different curvatures, each pellet having at least one jaw actuating means passage;

a handle assembly operatively coupled to the shaft member and to the tissue engaging means; and

a jaw actuating means for actuating the first and second jaws of the tissue engaging means between an open and a closed position, the jaw actuating means extending through the at least one passage of each of the pellets.

47. (New) The surgical device of claim 46 wherein each pellet includes a curved recess positioned opposite a curved projecting surface, wherein the at least one passage extends from the curved recess to the opposing curved projecting surface, and wherein the curved projecting surface of one pellet movably engages the recess of another pellet forming a ball and socket type interface between adjacent pellets.

48. (New) The surgical device of claim 46 wherein the outer tubing comprises heat shrink tubing.

49. (New) The surgical device of claim 46 wherein the jaw actuating means extends axially through the shaft member and being provided with coupling means at each end which enable the tissue engaging means and the shaft member to be separated from the remainder of the device.

50. (New) The surgical device of claim 46 wherein the outer tubing has a proximal end and a distal end, and wherein the transverse cross-sectional area of the outer tubing increases the distal end to the proximal end.

51. (New) A surgical device having a longitudinal axis extending between a proximal end and a distal end, comprising:

tissue engaging means including first and second opposed jaws for grasping, securing, and occluding body tissue and conduits;

a shaft member operatively coupled to the tissue engaging means, the shaft member including a series of interconnected ball and socket segments and an outer tubing, the ball and socket segments disposed within the outer tubing, the shaft member capable of being placed in different curvatures;

a handle assembly operatively coupled to the shaft member and to the tissue engaging means; and

a jaw actuating means for actuating the jaws of the tissue engaging means between an open position and a closed position, a first end of the jaw actuating means being operatively connected to the handle assembly, the jaw actuating means extending through the plurality of ball and socket segments and a second end operatively connected to tissue engaging means.

52. (New) The surgical device of claim 51 wherein each segment includes a curved recess positioned opposite a curved projecting surface, wherein each segment includes at least one passage extending from the curved recess to the opposing curved projecting surface, and wherein the curved projecting surface of one pellet movably engages the recess of another segment.

53. (New) The surgical device of claim 51 wherein the outer tubing comprises heat shrink tubing.

54. (New) The surgical device of claim 51 wherein the outer tubing has a proximal end and a distal end, and wherein the transverse cross-sectional area of the outer tubing increases the distal end to the proximal end.